

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. Public Law (P.L.) 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established the able-bodied adult without dependents (ABAWD) work requirement. Individuals between ages 18 to 50 without dependents, and who are not recipients of CalWORKs benefits, are eligible to receive food stamps if they are economically deprived and meet the ABAWD work requirement, which is an average of 80 hours per month unless they are exempt from participation. The ABAWD work requirement is met through employment, workfare, and/or participation in allowable work activities. Exemptions from the ABAWD work requirement include unfitness, pregnancy, residing in a food stamp household that includes a dependent child, residing in a county with an approved federal waiver of the work requirement, and/or food stamp work registration exemptions. Eligibility for food stamps without meeting the ABAWD work requirement is limited to three countable months within a 36-month period. Persons, who fail to meet the work requirement, may regain eligibility if during a 30-day period they satisfy the ABAWD work requirement. Those individuals who regain eligibility and subsequently stop meeting the work requirement may be eligible for food stamps for an additional period of three consecutive months. The additional three consecutive months is limited to one time within the 36-month period.
2. On January 17, 2001, the U.S. Department of Agriculture, Food and Nutrition Service (FNS) issued final regulations that implement provisions of the PRWORA, including the ABAWD work requirement. ABAWD regulations are codified at 7 CFR 273.24. FNS twice changed the effective date of the regulations as well as the required state implementation date. The final federal regulations are published in the Federal Register (Volume 66, Nummer 11) and have an effective date of July 31, 2001 and states are required to implement the regulations by October 1, 2001 (Administrative Notices (AN) 01-36 and 01-43). Since existing state regulations were based on federal statutes in PRWORA and federal directives from FNS, few substantive changes are needed to conform state regulations with final federal rules.
3. Public Law 107-171, the Farm Security and Rural Investment Act of 2002 which contains the Food Stamp Reauthorization Act of 2002 included amendments to employment and training funding requirements, reimbursement of the transportation and ancillary expenditures, and legal immigrant non-assistance food stamp recipient requirements. AN 03-04, dated October 21, 2002, provides additional implementation guidelines for restoration of federal food stamp benefits on April 1, 2003, for legal immigrants.
4. On June 19, 2002, FNS released regulations which significantly revised the Food Stamp Employment and Training (FSET), which is the employment and training program for non-

assistance food stamp recipients in California, and the Food Stamp Program voluntary quit and reduction of work effort requirements. These regulations are published in the Federal Register (Volume 67, Number 118) and have an effective date of August 19, 2002. State FSET, food stamp disqualification provision, and voluntary quit and reduction of work effort regulations contain provisions that must be revised to comply with the final federal regulations.

5. Adoption of this package on an emergency basis is needed to protect the health and safety of non-assistant food stamp recipients. Until state regulations are amended, a greater number of individuals will be denied or will lose food stamp eligibility and FSET participants could be deprived of necessary reimbursements for transportation and ancillary expenses. This is because state food stamp provisions for voluntary quit and reduction of work effort, disqualification periods, FSET, and ABAWDs are more severe than those contained in federal law, which may lead to litigation and federal financial penalties for California.
6. Because the nonemergency rulemaking process provided by Government Code Section 11346 et seq. is sufficiently lengthy, making it impossible to avoid risk to the health and safety to the public, these regulations are being filed on an emergency basis to be effective on August 8, 2003.

INFORMATIVE DIGEST

The proposed regulations implement and make specific the following:

- Public Law 107-171, the Farm Security and Rural Investment Act of 2002, which contains the Food Stamp Reauthorization Act of 2002, Sections 4121 and 4401. These sections amended 7 U.S.C. 2015, 7 U.S.C. 2025, and 8 U.S.C. 1612 by making amendments to the employment and training funding requirements, reimbursement of transportation and ancillary expenses, and legal immigrant non-assistance food stamp recipients.
- The regulations issued by the FNS in Federal Register (Volume 66, Number 11), dated January 17, 2001, implemented the ABAWD work requirements codified at 7 CFR 273.24.
- The regulations issued by the FNS in Federal Register (Volume 67, Number 118), dated June 19, 2002, which revised work provisions for FSET, disqualification periods, and voluntary quit and reduction of work effort requirements codified at 7 CFR 273.7.

State food stamp, voluntary quit, reduction of work effort, disqualification period, FSET and ABAWD regulations include the following amendments:

- Individuals no longer have to “end” a food stamp disqualification through violation compliance. Following the minimum disqualification period, individuals may be approved for food stamps if otherwise eligible and if in compliance with food stamp work registration requirements.
- The repeal of the \$25 cap for reimbursement of FSET transportation and ancillary costs.

- Applicants, who quit a job within 60 days prior to the date of application, are denied food stamps for one, three, or six months, depending on the instance of noncompliance, which begins with the month the individual is determined ineligible. Previously, food stamps were denied for a period of 90 days from the date of quit. The 90-day requirement is repealed.
- Applicants who reduce their work effort to less than 30 hours per week within 60 days prior to the date of application are subject to the same penalties as applicants who voluntarily quit a job.
- Voluntary quit hours per week are changed from 20 hours to 30 hours per week to be consistent with the reduction of work effort hours, which are 30 hours per week.
- Individuals, who are disqualified for voluntarily quitting a job or reducing the number of hours of work to less than 30 per week, may begin to participate in the Food Stamp Program if they apply after the end of the one-, three-, or six-month disqualification period, are otherwise eligible, and are determined by the CWD to be in compliance with the food stamp work registration requirement.
- Individuals disqualified for voluntarily quitting a job or reducing their work effort, who become exempt during the disqualification period, may reestablish eligibility without having to reapply for food stamps.
- The ABAWD work requirement is considered satisfied for a month in which an individual had good cause for temporarily missing work in a job of at least 80 hours per month.
- The 15 percent ABAWD exemption is listed as one of the exemptions from the ABAWD work requirement.
- To regain eligibility, an ABAWD must always meet the full 80-hour monthly work requirement or participate in workfare unless the individual qualifies for an exemption from the ABAWD work requirements.
- The resources of an ABAWD, who is discontinued due to exhaustion of the three countable months out of the 36-month period, are included in its entirety with the remaining food stamp household members' resources. A pro rata share of the income of the discontinued ABAWD shall be counted as income to the remaining members.
- The restoration of federal food stamp benefits to those immigrants who become legal noncitizens.

COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

LOCAL MANDATE STATEMENT

These regulations impose a mandate on local agencies but not on school districts. There are no reimbursable state-mandated costs because these regulations make only technical and clarifying changes.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific 7 U.S.C. 2015 and 2025, as amended by Section 4121, of the Food Stamp Reauthorization Act of 2002 (P.L. 107-171); 8 U.S.C. 1612, as amended by Section 4401, of the Food Stamp Reauthorization Act of 2002 (P.L. 107-171); Administrative Notices 01-24, 01-36, 01-43, and 03-04; 7 CFR 273.2, .7, .11, .12, .13, and .24; and FNS letters to CDSS dated August 27, 2001 and November 13, 2001 regarding compliance with the food stamp work registration requirements and resumption of food stamp benefits after a disqualification.